

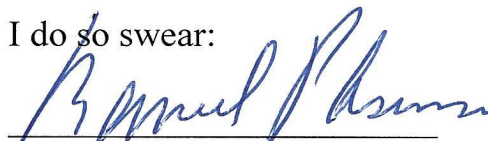
1 Parental duties and obligations and enjoy the love and companionship of his
2 daughter.

3
4 28. It takes only ordinary intelligence to consciously and independently
5 comprehend that the U.C.S. below the Court of Appeals used a complete and utter
6 disregard of truth, reason, fairness, law, facts, factors and circumstances against the
7 Petitioner-Appellant.

8
9 29. Based on a reasonable consideration of the facts, factors and circumstances in
10 this Affidavit and exhibits, if the Court of Appeals denies an Emergency Stay would
11 be the epitome of unfairness and injustice. Time is off the essence to allow the
12 Petitioner-Appellant to seek a stay in U.S. Federal Court.

13
14 30. If the Court of Appeals denies Petitioner-Appellant's prayer for a Stay, as an
15 alternative the Petitioner-Appellant prays for an Order for Leave to file an action
16 against Magistrate Fasanya in the United States District Court for the Southern
17 District of New York ordering that that State will not seek to dismiss the Federal
18 action or the Petitioner-Appellant's application for a Stay.

I do so swear:



Manuel P. Asensio
Petitioner-Appellant

January 16, 2018

**THE COURT OF APPEALS
NEW YORK STATE**

-----X
MANUEL P. ASENSIO,
Petitioner-Appellant

-against-

**APL No. 2017-00246
[A.D. No. O.P. 125/2017]**

Hon. Nancy M. Bannon
New York State Supreme Court Justice,
New York County,

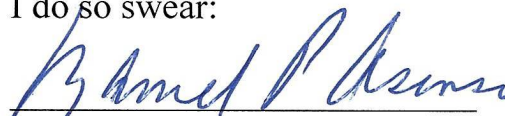
VERIFICATION

Respondent-Respondent

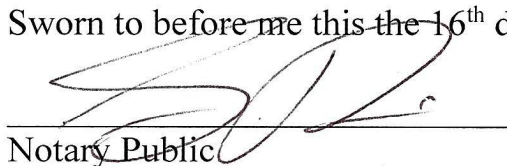
-----X
STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

I, Manuel P. Asensio, swear that I am the Petitioner-Appellant in the above captioned matter that I am fully familiar with the facts and record of this action and that the statements I made in the **AFFIDAVIT IN SUPPORT OF MOTION FOR AN ORDER TO SHOW CAUSE FOR AN EMERGENCY STAY** dated January 16, 2018 are complete and true to the best of my own personal knowledge, except as to matters stated upon information and belief and on those matters I swear solemnly that I believe them to be true to the utmost of my knowledge and belief.

I do so swear:


Manuel P. Asensio

Sworn to before me this the 16th day of January 2018:


Notary Public

SAMUEL T RICHMAN
Notary Public, State of New York
No. 01RI6339167
Qualified in Kings County
Commission Expires March 28, 2020

EXHIBIT 1

Christopher J. Battaglia, Esq.
North Shore Attrium
6800 Jericho Turnpike, Suite 120W
Syosset, New York 11791 (516) 376-0711

April 20, 2015

Honorable Judge Adetokunbo O. Fasanya
New York Family Court
60 Lafayette Street
New York, NY 10013

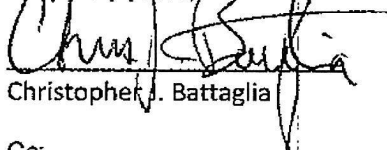
Re: Asensio vs. Bosak, File 12842; V-43839-13/13A

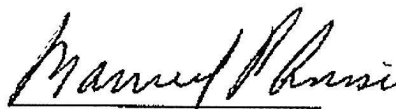
Dear Judge Fasayana:

As you know, I represent the Petitioner in the above referenced case. My bill for this entire custody case is a flat fee of \$7500, including the trial, which is less than 1/2 of the attorney for the child's ("AFC") billings to date. The AFC's charges have been mostly for prosecuting three (3) Orders to Show Cause to collect fees from my client. The Court has summarily denied my client's three motions seeking relief from the fee portions of the Court's May 15th, 2014 Order appointing the AFC. These rulings were made despite there being no evidence offered against my client's position and Respondent's failure to provide any financial disclosure. The Respondent has not complied with financial discovery versus my client's timely¹ and complete financial disclosure. The Court denied the Respondent's second motion to dismiss and ordered that custody trial dates be set on or about January 26th, 2015.

My client and his daughter are suffering daily access violations and interferences but he and his family cannot afford to continue paying for the AFC's fees. As a result, he cannot proceed to trial without protection against incurring additional obligations and liabilities under the Court's order appointing the AFC. Thus, the Petitioner has no choice but to respectfully withdraw the within petition unless such protection is granted.

Very truly yours,


Christopher J. Battaglia


Manuel P. Asensio

Cc:
Susan Moss, Esq.
Chemtob Moss & Forman, LLP
3 East 54th Street, 16th Floor
New York, New York 10022
(212) 317-1717 smoss@cmftlaw.com

Carmen Restivo, Esq.
299 Broadway
Suite 1415
New York, New York 10007
(718) 767-3798 crestivoesq@AOL.com

¹ The AFC fee controversy began during the custody violation proceedings against the Respondent. The Court granted the Plaintiff make-up time but withheld the entering of an order until he filed his bank statements and income tax returns on a confidential basis, which he did immediately. The Plaintiff later filed a full financial disclosure form.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

File # 128425
Docket #: V-43839-13/13A

MANUEL P. ASENSIO,
Petitioner-Father,

-- against --

EMILIE BOSAK,
Respondent-Mother.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

I, Richard Andrade, being duly sworn, deposes and says that I am not a party to the within action and I am over 18 years of age on February 23rd, 2015 and that I served a copy of the Petitioner-Father's:

LETTER TO THE HONORABLE JUDGE ADETOKUNBO O. FASANYA DATED April 20, 2015.

On the following parties.

Upon: Chemtob Moss & Forman
3 East 54th Street, 16th Floor
New York, NY 10022
Attn: Susan Moss, Esq.

Carmen Restivo, Esq.
299 Broadway - Suite 415
New York, NY 10007

Sworn before me this 20th Day of April, 2015.

Matthew B. Beatus
Notary Public

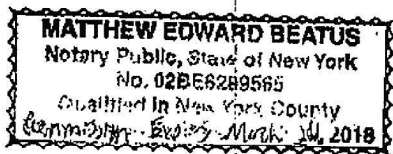


EXHIBIT 2

Manuel P. Asensio
400 East 54th Street, Apartment 29B
New York, New York 10022
212-702-8801 cellular 917-515-5200
mpa@asensio.com

December 27, 2017

John P. Asiello
Clerk of the Court
N.Y.S. Court of Appeals ["COA"]
20 Eagle Street
Albany, New York 12207-1095

Re: **REQUEST OF EMERGENCY EXPIDITED REVIEW**
COA Petitioner Manuel P. Asensio ["Petitioner"]
APL No. 2017-00244; A.D. No. O.P. 124/2017
APL No. 2017-00246; A.D. No. O.P. 125/2017

Dear Mr. Asiello:

1. I am the Petitioner in the two Notices of Appeals at the COA referred to above and the attached two Notices of Appeals entered today for A.D.'s denials of Petitioner's Motions Numbered M-5134 and M-5136 and the A.D.'s denial of the Petitioner's Motion 5039. The three new A.D. decisions are the A.D.'s 18th, 19th and 20th denials of the Petitioner's motions praying for a stay and leave to appeal, which is required under F.C.A. Article 1112 that grants the A.D. discretion. All 20 denials are without regards to facts, reason or rational basis for conclusion thus are contrary to law. I respectfully request permission to file a motion addressing the need for an Emergency Stay on expedited basis before filing a Motion for leave to stay in any of the now four Notices of Appeals pending at the COA.
2. The cause for the need is the Chief Judge of the Court of Appeals of the State of New York, Janet DiFiore,¹ use of her constitutional power under NY Constitution Article 6 Section 28 to promulgated certain unidentified unpublished ideological polices and standards against the Petitioner and in favor of Judge Fasanya.

¹ The Chief Judge is also Chief Judge of the Courts and the Chair of the Administrative Board of the Courts and her Designate Deputy and appointees are leaders of the Office of Court Administration.

3. The 20 denied motions address the New York County Family Court Magistrate Adetokunbo O. Fasanya's alleged personal conduct and interim fees and custody orders in *Asensio vs. Bosak*, V-43839-13/13A and *Bosak vs. Asensio*, V-38917-15/15A ["New York County Family Court Cases"]. The alleged personal conduct violates Judiciary Law 100 and malicious use of Judiciary Law 2b-3. Thus are indictable under NY Penal Laws Sections 10, 195 and 496, which discretion is exclusively under the primary control of the Chief Judge in this State. The Petitioner has no private cause of action under these statutes and any action would not prevent Judge Fasanya from continuing to violate these laws and entering a fraudulent unreviewable Final Disposition and then simply ignoring the actions against him. Thereby causing further emotional and money damages.
4. The nature of the Petitioner's allegations and evidence explains why each of the A.D.'s 20 denials represents a blatant abuse of discretion. None of the A.D.'s denials contains any indication of review or decision-making. They are all totally devoid of any analysis of facts, factors, circumstances or law, or any reasoning or application of law other than a bald application of F.C.A. Article 1112. All of them avoid dealing with Judge Fasanya's serious violations of statutory laws, which are not subject to interpretations but are mandates intended to protect the Petitioner's rights, and actions that are in direct contravention to the State's case law.
5. The A.D. has deliberately ignored 20 motions based on evidence in the record of Judge Fasanya's conduct that violates the clear wording of statutory provisions in DRL 245, CPLR 136, 5104, 5523, 5519 and 5523 and even the highly detailed mandated under Judiciary Laws 604.1, 753, 756, 770, 772 and 773. Also violated are the unequivocal mandates in F.C.A. 245 and 248 and their related statutes Judiciary Law 35, 36, 36.2, County Law Article 18-B and UCS 872.
6. The A.D.'s denials are interfering with the Petitioner's rights to prosecute his custody case in Supreme Court. The effect of the A.D.'s denials is to deny Petitioner his right to prosecute two Article 78 Petitions against Judge Fasanya. The Petitioner is also prosecuting two plenary civil actions against Judge Fasanya that are acts of futility under the A.D.'s denials.
7. All of these cases were made necessary by the A.D.'s 20 denials and they all address the same exact law and facts and are based on the same exact law and facts as those contained in the New York Family Court Cases. However, exactly as the A.D. did in the 20 motions, Judge Fasanya is doing with the A.D. knowledge and approval in the New York County Family Court Cases.

8. Most importantly, the A.D.'s denials have trapped the Petitioner in Judge Fasanya's courtroom despite Judge Fasanya's entering an order dismissing the Petitioner and stating that he will not compel him to appear in his courtroom. Judge Fasanya, a Magistrate in a unconstitutional limited jurisdiction court is interfering with Petitioner's rights to prosecution a motion addressing his custody issues in the State's only Constitutional court, its Supreme Court.
9. The 20 motions contain a wealth of undisputed and undeniable evidence of Judge Fasanya's deliberate and malicious secrete dealings with third parties, and other violations of Judiciary Law 100. The evidence also shows Judge Fasanya's deliberate and illegal use of his general powers under Judiciary Law 2-b3, which can only be used for ministerial non-judicial functions. Judge Fasanya has used these powers to prolong the Family Court proceedings for over four and half years, to affect the record, take discretions with the Petitioner's rights and affect any Final Disposition. Specifically, the evidence shows Judge Fasanya using his ministerial power to fabricate unauthorized fee orders and to violate statutes to intimidate and punish the Petitioner for seeking to enforce his God Given Natural Father's Rights and his legal custody rights under the Supreme Court's Judgement of Divorce. The evidence also shows Judge Fasanya using his ministerial power to deny the Petitioner a hearing and the right to be heard and to collude with third parties to fabricate false evidence.
10. The Chief Judge has promulgated policies and standards, which she determines are "unalterable," that Judge Fasanya's above-alleged conduct is "reviewable" by the A.D. The Chief Judge has promulgated this obviously entirely unreal proclamation to the Petitioner, the New York State Attorney General, the Office of Court Administration, the Supreme Court judges in the civil and Family cases referred to above, and Judge Fasanya. The Petitioner respectfully requests permission to file a motion for an Emergency Stay on expedited basis before filing a Motion for leave to appeal in any of the four Notices of Appeals pending at the COA. Fundamental reason and ordinary intelligence dictates that a stay must be entered before Judge Fasanya enters a judgment.

Sincerely,



Manuel P. Asensio

Cc: James Cooney, Assistant Attorney General, New York Attorney General,
212-416-6082, james.cooney@ag.ny

Pedro Morales, Jr., Assistant Deputy Counsel, OCA, 212-428-2150

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT
NOTICE OF APPEAL TO THE COURT OF APPEALS

-----X
In the Matter of a Family Court Proceeding
MANUEL P. ASENSIO,

Petitioner-Appellant,

Motion Nos.: M-5134

M-5136

Index No.: 155833/2017

-against-

NOTICE OF APPEAL

Hon. Adetokunbo O. Fasanya

Respondent-Appellee,

Emilie Marie Bosak,
Richard Spitzer and
Carmen Restivo

Co-Respondents-Appellees.
-----X

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

RECEIVED
DEC 27 2017
SUP COURT APP. DIV.
FIRST DEPT.

PLEASE TAKE NOTICE, that I, Manuel P. Asensio, the Petitioner-Appellant in the above titled proceeding hereby submits this Notice of Appeal from each and every term and decision in the Appellate Division for the First Department's ["AD"] Order entered by the AD on December 21, 2017 on the Petitioner-Appellant's Motion Numbered: **M-5134 and M-5316** "by separate motions, pursuant to CPLR 5704, for certain relief denied by a Justice [Nancy M. Bannon] of the Supreme Court, New York County, on or about September 20, 2017 [on Motion Seq. No. 4 and September 29, 2017 on Motion Seq. No. 5], and

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT
NOTICE OF APPEAL TO THE COURT OF APPEALS

-----X
In the Matter of a Family Court Proceeding
MANUEL P. ASENSIO,

Petitioner-Appellant,

**Motion Nos.: M-5134
M-5136
Index No.: 155833/2017**

-against-

NOTICE OF APPEAL

Hon. Adetokunbo O. Fasanya

Respondent-Appellee,

Emilie Marie Bosak,
Richard Spitzer and
Carmen Restivo

Co-Respondents-Appellees.
-----X


STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

2017 DEC 27 PM 4:37
STATE OF NEW YORK
APPELLATE DIVISION
CLERK'S OFFICE
JULIA M. HARRIS, CLERK

PLEASE TAKE NOTICE, that I, Manuel P. Asensio, the Petitioner-Appellant in the above titled proceeding hereby submits this Notice of Appeal from each and every term and decision in the Appellate Division for the First Department's ["AD"] Order entered by the AD on December 21, 2017 on the Petitioner-Appellant's Motion Numbered: **M-5134 and M-5316** "by separate motions, pursuant to CPLR 5704, for certain relief denied by a Justice [Nancy M. Bannon] of the Supreme Court, New York County, on or about September 20, 2017 [on Motion Seq. No. 4 and September 29, 2017 on Motion Seq. No. 5], and

for a stay of all proceedings in connections with certain matters before the Family Court, New York County” to the State of New York Court of Appeals.

I do so swear:


Manuel P. Asensio

cc:

ERIC T. SHENIDERMAN,

Attorney General of the State of New York

JAMES COONEY, Assistant Attorney General,

NYS Office of the Attorney General Litigation Bureau (NYC)

120 Broadway, 24th Floor

New York, NY 10271-0332

(212) 416-6082 james.cooney@ag.ny.gov

SUSAN MOSS AND ALEXIS WOLF

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New York, New York 10022

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SCOTT CHRISTESEN

Fumuso, Kelly, Swart, Farrell, Polin & CHristesen, LLP

110 Marcus Boulevard

Happauge, New York 111788-3704

schristesen@110-law.com

CARMEN RESTIVO

299 Broadway Ste 1415

New York, NY 10007

(718) 767-3798

crestivoesq@AOL.com

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT
NOTICE OF ENTRY TO THE COURT OF APPEALS

-----X
In the Matter of a Family Court Proceeding
MANUEL P. ASENSIO,

Petitioner-Appellant,

-against-

Hon. Adetokunbo O. Fasanya

Respondent-Appellee,

Emilie Marie Bosak,
Richard Spitzer and
Carmen Restivo

Co-Respondents-Appellees.
-----X

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

**Motion Nos.: M-5134
M-5136
Index No.: 155833/2017**

NOTICE OF ENTRY

NOTICE OF ENTRY OF ORDER


PLEASE TAKE NOTICE that the attached is a true copy of a single
Order entered on December 21, 2017 on the Petitioner-Appellant's Motion Seq.
Nos. M-5134 and M-5136 by the Supreme Court, Appellate Division for the First
Department.

I do so swear:

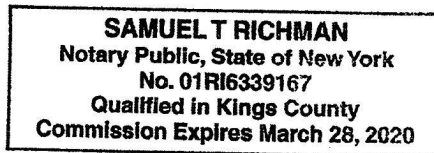


Manuel P. Asensio

Sworn to before me this the 27th Day of December 2017



Notary Public



2017 DEC 27 PM 4:32
KINGS COUNTY CLERK
JANUARY 2, 2018

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 21, 2017.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
Judith J. Gische
Cynthia S. Kern
Anil C. Singh, Justices.

-----X
Manuel P. Asensio,
Petitioner-Appellant,

-against-

Judge Adetokunbo Fasanya,
Respondent-Respondent.

M-5134
M-5136
Index No. 155833/17

-----X

Petitioner-appellant having moved, by separate motions, pursuant to CPLR 5704, for certain relief denied by a Justice of the Supreme Court, New York County, on or about September 20, 2017, and for a stay of all proceedings in connection with certain matters before the Family Court, New York County,

Now, upon reading and filing the papers with respect to the motions, and due deliberation having been had thereon,

It is ordered that the motions are denied.

ENTERED:



DEPUTY CLERK

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT
NOTICE OF APPEAL TO THE COURT OF APPEALS

-----X
In the Matter of a Proceeding for Custody/Visitation

MANUEL P. ASENSIO,

Petitioner-Appellant,

Motion No.: M-5039
Docket No. V-43839-13/13A

-against-

NOTICE OF APPEAL

Emilie Bosak,

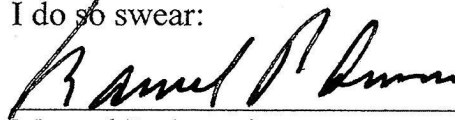
Respondent-Appellee.

-----X
STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

RECEIVED
DEC 27 2017
SUP COURT APP. DIV.
FIRST DEPT.


PLEASE TAKE NOTICE, that I, Manuel P. Asensio, the Petitioner-Appellant in the above titled proceeding hereby submits this Notice of Appeal from each and every term and decision in the Appellate Division for the First Department's ["AD"] Order entered by the AD on December 14, 2017 on the Petitioner-Appellant's Motion Numbered: **M-5039** "for leave to appeal to this Court from an interim order of the Family Court, New York County, entered on or about June 30, 2017, and for a stay of all proceedings pending hearing and determination of a pro se Article 78 proceedings petitioner has filed against a certain Family Court Judge" to the State of New York Court of Appeals.

I do so swear:



Manuel P. Asensio

Sworn to before me this the 27th Day of December 2017



Notary Public

SAMUEL T RICHMAN
Notary Public, State of New York
No. 01R16339167
Qualified in Kings County
Commission Expires March 28, 2020